
SUBSTITUTE HOUSE BILL 2295

State of Washington 58th Legislature 2004 Regular Session

By House Committee on Education (originally sponsored by Representatives Quall, Talcott, Rockefeller and Anderson)

READ FIRST TIME 02/03/04.

1 AN ACT Relating to charter schools; amending RCW 28A.150.010;
2 adding new sections to chapter 41.56 RCW; adding new sections to
3 chapter 41.59 RCW; adding a new section to chapter 41.32 RCW; adding a
4 new section to chapter 41.35 RCW; adding a new section to chapter 41.40
5 RCW; and adding a new chapter to Title 28A RCW.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** INTENT. The legislature intends to
8 authorize the establishment of public charter schools within the
9 general and uniform system of public schools for the primary purpose of
10 providing more high-quality learning environments to assist
11 educationally disadvantaged students and other students in meeting the
12 state's academic standards. The legislature intends for charter
13 schools to function as an integral element of the public school system
14 maintained at public expense, free from discrimination, and open to all
15 students in the state, and to be subject to the same or greater
16 academic standards and performance outcomes as other public schools.
17 The legislature intends to encourage school districts to consider using
18 the chartering process as an optional tool to achieve state and federal
19 academic accountability goals. The legislature finds that in addition

1 to providing more high-quality public school choices for families,
2 teachers, and students, public charter schools may be a tool to improve
3 schools in which significant numbers of students persistently fail to
4 meet state or federal standards. The legislature also intends to
5 authorize the use of the chartering process as a state intervention
6 strategy, consistent with the provisions of the federal no child left
7 behind act of 2001, to provide assistance to schools in which
8 significant numbers of students persistently fail to meet state and
9 federal standards. The legislature also intends to ensure
10 accountability of charter schools through the use of performance audits
11 and a comprehensive study of charter schools, and to use the
12 information generated to demonstrate how charter schools can contribute
13 to existing education reform efforts focused on raising student
14 academic achievement.

15 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
16 section apply throughout this chapter unless the context clearly
17 requires otherwise.

18 (1) "Alternate sponsor" means the board of directors of an
19 educational service district.

20 (2) "Applicant" means a nonprofit corporation that has submitted an
21 application to a sponsor or has filed an appeal with the superintendent
22 of public instruction to obtain approval to operate a charter school.
23 The nonprofit corporation must be either a public benefit nonprofit
24 corporation as defined in RCW 24.03.490, or a nonprofit corporation as
25 defined in RCW 24.03.005 that has applied for tax-exempt status under
26 section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C. Sec.
27 501(c)(3)). The nonprofit corporation may not be a sectarian or
28 religious organization and must meet all of the requirements for a
29 public benefit nonprofit corporation before receiving any funding under
30 section 12 of this act.

31 (3) "Charter school board" means the board of directors appointed
32 or elected by the applicant to manage and operate the charter school.

33 (4) "Charter" means a five-year contract between an applicant and
34 a sponsor or an alternate sponsor. The charter establishes, in
35 accordance with this chapter, the terms and conditions for the
36 management, operation, and educational program of the charter school.

1 (5) "Charter school" means a public school managed by a charter
2 school board and operating according to the terms of a charter approved
3 under this chapter and includes a new charter school and a conversion
4 charter school.

5 (6) "Conversion charter school" means a charter school created by
6 converting an existing public school in its entirety to a charter
7 school under this chapter.

8 (7) "Educationally disadvantaged students" includes students with
9 limited English proficiency; students with special needs, including
10 students with disabilities; economically disadvantaged students,
11 including students who qualify for free and reduced priced meals;
12 students exercising choice options and seeking supplemental services
13 under the federal no child left behind act of 2001; and other students
14 who may be at risk of failing to meet state and federal academic
15 performance standards.

16 (8) "New charter school" means any charter school created under
17 this chapter that is not a conversion charter school.

18 (9) "Sponsor" means the board of directors of the school district
19 in which the proposed charter school will be located, if the board has
20 approved a charter or if the board has agreed to administer and
21 implement a charter approved and authorized by the superintendent of
22 public instruction under the appeal process in section 7 of this act.

23 NEW SECTION. **Sec. 3.** CHARTER SCHOOLS--POWERS. (1) To carry out
24 its duty to manage and operate the charter school, the charter school
25 board may:

26 (a) Hire, manage, and discharge any charter school employee in
27 accordance with the terms of this chapter and that school's charter;

28 (b) Enter into a contract with any school district, or any other
29 public or private entity, also empowered to enter into contracts, for
30 any and all real property, equipment, goods, supplies, and services,
31 including educational instructional services; however, this authority
32 does not permit assigning, delegating, or contracting out the
33 administration and management of a charter school to a for-profit
34 entity;

35 (c) Rent, lease, or own property, but may not acquire property by
36 eminent domain. All charters and charter school contracts with other

1 public and private entities must include provisions regarding the
2 disposition of the property if the charter school fails to open as
3 planned or closes, or the charter is revoked or not renewed;

4 (d) Issue secured and unsecured debt to manage cash flow, improve
5 operations, or finance the acquisition of real property or equipment.
6 The issuance is not a general, special, or moral obligation of the
7 state, the charter school sponsor, the school district in which the
8 charter school is located, or any other political subdivision or agency
9 of the state. Neither the full faith and credit nor the taxing power
10 of the state, the charter school sponsor, the school district in which
11 the charter school is located, or any other political subdivision or
12 agency of the state may be pledged for the payment of the debt;

13 (e) Accept and administer for the benefit of the charter school and
14 its students, gifts, grants, and donations from other governmental and
15 private entities, excluding sectarian or religious organizations.
16 Charter schools may not accept any gifts or donations the conditions of
17 which violate this chapter.

18 (2) A charter school may not charge tuition, levy taxes, or issue
19 tax-backed bonds, however it may charge fees for optional noncredit
20 extracurricular events.

21 (3) Neither a charter school sponsor nor an alternate sponsor is
22 liable for acts or omissions of a charter school or its charter school
23 board, including but not limited to acts or omissions related to the
24 application, the charter, the operation, the performance, and the
25 closure of the charter school.

26 NEW SECTION. **Sec. 4.** LEGAL STATUS. A charter school is a public
27 school including one or more of grades kindergarten through twelve,
28 operated by a board of directors appointed or elected by a charter
29 school applicant, according to the terms of a renewable five-year
30 contract granted by a sponsor or an alternate sponsor. A charter
31 school may offer any program or course of study that another public
32 school may offer. A charter school must allow students who are
33 receiving home-based instruction under chapter 28A.200 RCW to
34 participate in its programs on a part-time basis.

35 NEW SECTION. **Sec. 5.** CHARTER SCHOOLS--EXEMPTIONS. (1) A charter

1 school shall operate according to the terms of a charter approved by a
2 sponsor or by the superintendent of public instruction under this
3 chapter.

4 (2) Charter schools are exempt from all state statutes and rules
5 applicable to school districts and school district boards of directors,
6 including but not limited to rules regarding the expenditure of state
7 allocations as provided in section 12 of this act, except those
8 statutes and rules as provided for and made applicable to charter
9 schools in accordance with this chapter and in the school's approved
10 charter.

11 (3) A charter school's board of directors shall implement a quality
12 management system and conduct annual self-assessments.

13 (4) All approved charter schools shall:

14 (a) Comply with state and federal health, safety, parents' rights,
15 civil rights, and nondiscrimination laws, including, but not limited
16 to, the family educational rights and privacy act (20 U.S.C. 1232g),
17 chapter 28A.640 RCW (sexual equality), and Title IX of the education
18 amendments of 1972 (20 U.S.C. Sec. 1681 et seq.) applicable to school
19 districts, and to the same extent as school districts;

20 (b) Participate in free and reduced priced meal programs to the
21 same extent as is required for other public schools;

22 (c) Participate in nationally normed standardized achievement tests
23 as required in RCW 28A.230.190, 28A.230.193, and 28A.230.230 and the
24 elementary, middle school, and high school standards, requirements, and
25 assessment examinations as required in chapter 28A.655 RCW;

26 (d) Employ certificated instructional staff as required in RCW
27 28A.410.010, however charter schools may hire noncertificated
28 instructional staff of unusual competence and in exceptional cases as
29 specified in RCW 28A.150.260;

30 (e) Comply with the employee record check requirements in RCW
31 28A.400.303;

32 (f) Be subject to financial examinations and audits as determined
33 by the state auditor, including annual audits for legal and fiscal
34 compliance;

35 (g) Be subject to independent performance audits by a qualified
36 contractor selected jointly by the state auditor and the joint
37 legislative audit and review committee beginning at the conclusion of

1 the third year of the school's operation, and at least once every three
2 years thereafter; however, a charter school is not required to bear the
3 expense of the audits;

4 (h) Comply with the annual performance report under RCW
5 28A.655.110;

6 (i) Follow the performance improvement goals and requirements
7 adopted by the academic achievement and accountability commission by
8 rule under RCW 28A.655.030;

9 (j) Be subject to the accountability requirements of the federal no
10 child left behind act of 2001, including Title I requirements;

11 (k) Comply with and be subject to the requirements under the
12 individuals with disabilities education act, as amended in 1997;

13 (l) Comply with and be subject to the requirements under the
14 federal educational rights and privacy act;

15 (m) Report at least annually to the board of directors of the
16 school district in which the charter school is located, to the school's
17 alternate sponsor if the school is not sponsored by a school district,
18 and to parents of children enrolled at the charter school on progress
19 toward the student performance goals specified in the charter;

20 (n) Comply with the open public meetings act in chapter 42.30 RCW
21 and open public records requirements in RCW 42.17.250;

22 (o) Be subject to and comply with legislation enacted after the
23 effective date of this section governing the operation and management
24 of charter schools; and

25 (p) Conduct annual self assessments of its quality management
26 program.

27 (5) A member of a board of directors of a charter school is a board
28 member of a school district for the purposes of public disclosure
29 requirements and must comply with the reporting requirements in RCW
30 42.17.240.

31 NEW SECTION. **Sec. 6.** ADMISSION REQUIREMENTS. (1) To effectuate
32 the primary purpose for which the legislature established charter
33 schools, a charter school must be willing to enroll educationally
34 disadvantaged students and may not limit admission on any basis other
35 than age group and grade level. Consistent with the legislative intent
36 of this chapter, a charter school shall conduct timely outreach and

1 marketing efforts to educationally disadvantaged students in the school
2 district in which the charter school will be located.

3 (2) A conversion charter school must be structured to provide
4 sufficient capacity to enroll all students who wish to remain enrolled
5 in the school after its conversion to a charter school, and may not
6 displace students enrolled before the chartering process. If, after
7 enrollment of these students, capacity is insufficient to enroll all
8 other students remaining who have submitted a timely application, the
9 charter school must give enrollment priority to siblings of students
10 who are currently enrolled in the school. Students selected to fill
11 any remaining spaces must be selected only through an equitable
12 selection process, such as a lottery.

13 (3) A new charter school must enroll all students who submit a
14 timely application if capacity is sufficient. If capacity is
15 insufficient to enroll all students who apply, students must be
16 selected to fill any remaining spaces only through an equitable
17 selection process, such as a lottery. Siblings of enrolled students
18 must be given priority in enrollment.

19 NEW SECTION. **Sec. 7.** CHARTER APPLICATION--CHARTERING PROCESS.

20 (1) An applicant may apply to a sponsor or may appeal to the
21 superintendent of public instruction for approval to establish a
22 charter school under this section. An application may not be submitted
23 earlier than eighteen months before, nor later than four months before,
24 the proposed date of opening the school.

25 (2) The superintendent of public instruction shall establish
26 guidelines for the timely receipt and approval of applications to
27 facilitate the efficient implementation of this act. Guidelines
28 established under this subsection shall reflect efficient processes for
29 the expeditious and orderly start-up of charter schools in a timely
30 manner for the purpose of serving students.

31 (3) An application for a charter school must be submitted first to
32 the board of directors of the school district in which the proposed
33 charter school will be located, allowing for the board's consideration
34 of the application in accordance with subsections (4) and (5) of this
35 section, before an appeal may be filed with the superintendent of
36 public instruction. A copy of each application submitted to a sponsor
37 also must be provided to the superintendent of public instruction.

1 (4) The school district board of directors must decide, within
2 forty-five days of receipt of the application, whether to hold a public
3 hearing in the school district to take public comment on the
4 application and, if a hearing is to be held, must schedule it within
5 seventy-five days of receipt of the application. If the school board
6 intends to accept the application, one or more public hearings must be
7 held before granting a charter; however a school board is not required
8 to hold a public hearing before rejecting an application. The school
9 board must either accept or reject the application within one hundred
10 five days after receipt of the application. The one hundred five-day
11 deadline for accepting or rejecting the charter school application may
12 be extended for an additional thirty days if both parties agree in
13 writing.

14 (5) If the school board does not hold a public hearing or rejects
15 the application after holding one or more public hearings, the school
16 board must notify the applicant in writing of the reasons for that
17 decision. The applicant may submit a revised application for the
18 school board's reconsideration and the school board may provide
19 assistance to improve the application. If the school board rejects the
20 application after a revised application is submitted, the school board
21 must notify the applicant in writing of the reasons for the rejection.

22 (6) At the request of the applicant or the sponsor, the
23 superintendent of public instruction may review the charter application
24 and provide technical assistance.

25 (7) If a school district board does not approve an application to
26 start a new charter school, the applicant may file an appeal to the
27 superintendent of public instruction for further review of the
28 application.

29 (8) Upon receipt of a request for review, the superintendent must
30 attempt to mediate a resolution between the applicant and the school
31 district board, and may recommend to the applicant and school district
32 board revisions to the application.

33 (9) If the school district board does not accept the revisions and
34 does not approve the application, the superintendent must review the
35 application. The superintendent, after exercising due diligence and
36 good faith, must:

37 (a) Approve the application if the superintendent finds:

38 (i) The criteria in section 9 of this act has been met;

1 (ii) That an alternate sponsor has agreed to assume the rights and
2 responsibilities of sponsoring the school; and

3 (iii) The approval will be within the annual limits in section 16
4 (1) and (2) of this act; or

5 (b) Reject the application if the superintendent finds:

6 (i) The criteria in section 9 of this act has not been met;

7 (ii) That no alternate sponsor has agreed to assume the rights and
8 responsibilities of sponsoring the school; or

9 (iii) The approval will not be within the annual limits established
10 in section 16 (1) and (2) of this act.

11 (10) If the superintendent rejects the application, the
12 superintendent must notify the applicant in writing of the reasons for
13 the rejection.

14 (11) Educational service districts and the superintendent of public
15 instruction are encouraged to assist schools and school districts in
16 which significant numbers of students persistently fail to meet state
17 standards with completing the chartering process. Assistance from an
18 educational service district or from the superintendent of public
19 instruction may include, but is not limited to, identifying potential
20 eligible applicants, and assisting with the charter application and
21 approval processes.

22 (12) Consistent with the corrective action provisions in the
23 federal no child left behind act of 2001, the superintendent of public
24 instruction may use the chartering process as an intervention strategy
25 to meet federal student achievement and accountability requirements.
26 The superintendent may require a local school district board of
27 directors to convert a public school to a charter public school or, if
28 the superintendent determines it would be more appropriate, may require
29 a local school district board of directors to consent to conversion of
30 the school by an educational service district board of directors or the
31 superintendent.

32 NEW SECTION. **Sec. 8.** APPLICATION REQUIREMENTS. The charter
33 school application is a proposed contract and must include:

34 (1) The identification and description of the nonprofit corporation
35 submitting the application, including the names, descriptions,
36 curriculum vitae, and qualifications of the individuals who will

1 operate the school, all of which are subject to verification and
2 review;

3 (2) The nonprofit corporation's articles of incorporation, bylaws,
4 and most recent financial statement and balance sheet;

5 (3) A mission statement for the proposed school, consistent with
6 the description of legislative intent in this chapter, including a
7 statement of whether the proposed charter school's primary purpose is
8 to serve educationally disadvantaged students;

9 (4) A description of the school's educational program, curriculum,
10 and instructional strategies, including but not limited to how the
11 charter school will assist its students, including educationally
12 disadvantaged students, in meeting the state's academic standards;

13 (5) A description of the school's admissions policy and marketing
14 program, and its deadlines for applications and admissions, including
15 its program for community outreach to families of educationally
16 disadvantaged students;

17 (6) A description of the school's student performance standards and
18 requirements that must meet or exceed those determined under chapter
19 28A.655 RCW, and be measured according to the assessment system
20 determined under chapter 28A.655 RCW;

21 (7) A description of the school's plan to evaluate student
22 performance and the procedures for taking corrective action if student
23 performance at the charter school falls below standards established in
24 its charter;

25 (8) A description of the financial plan for the school. The plan
26 shall include: (a) A proposed five-year budget of projected revenues
27 and expenditures; (b) a plan for starting the school; (c) a five-year
28 facilities plan; (d) evidence supporting student enrollment projections
29 of at least twenty students; and (e) a description of major contracts
30 planned for administration, management, equipment, and services,
31 including consulting services, leases, improvements, real property
32 purchases, and insurance;

33 (9) A description of the proposed financial management procedures
34 and administrative operations, which shall meet or exceed generally
35 accepted standards of management and public accounting;

36 (10) An assessment of the school's potential legal liability and a
37 description of the types and limits of insurance coverage the nonprofit

1 corporation plans to obtain. A liability insurance policy of at least
2 five million dollars is required;

3 (11) A description of the procedures to discipline, suspend, and
4 expel students;

5 (12) A description of procedures to assure the health and safety of
6 students, employees, and guests of the school and to comply with
7 applicable federal and state health and safety laws and regulations;

8 (13) A description of the school's program for parent involvement
9 in the charter school;

10 (14) Documentation sufficient to demonstrate that the charter
11 school will have the liquid assets available to operate the school on
12 an ongoing and sound financial basis;

13 (15) Supporting documentation for any additional requirements that
14 are appropriate and reasonably related to operating the charter school
15 that a sponsor or alternate sponsor may impose as a condition of
16 approving the charter; and

17 (16) A description of the quality management plan for the school,
18 including its specific components.

19 NEW SECTION. **Sec. 9.** APPROVAL CRITERIA. A sponsor or alternate
20 sponsor may approve an application for a charter school, if in the
21 sponsor's or alternate sponsor's reasonable judgment, after exercising
22 due diligence and good faith, the sponsor or alternate sponsor finds:

23 (1) The applicant is an eligible public benefit nonprofit
24 corporation and the individuals it proposes to manage and operate the
25 school are qualified to operate a charter school and implement the
26 proposed educational program that is free from religious or sectarian
27 influence;

28 (2) The public benefit nonprofit corporation has been approved or
29 conditionally approved by the internal revenue service for tax exempt
30 status under section 501(c)(3) of the internal revenue code of 1986 (26
31 U.S.C. Sec. 501(c)(3));

32 (3) The mission statement is consistent with the description of
33 legislative intent and restrictions on charter school operations in
34 this chapter. The sponsor or alternate sponsor must make a finding of
35 whether or not the charter school's primary purpose is to serve
36 educationally disadvantaged students;

1 (4) The school's educational program, including its curriculum and
2 instructional strategies, is likely to assist its students, including
3 its educationally disadvantaged students, in meeting the state's
4 academic standards;

5 (5) The school's admissions policy and marketing program is
6 consistent with state and federal law, and includes community outreach
7 to families of educationally disadvantaged students;

8 (6) The school's proposed educational program includes student
9 academic performance standards and requirements that meet or exceed
10 those determined under chapter 28A.655 RCW and are measured according
11 to the assessment system determined under chapter 28A.655 RCW;

12 (7) The application includes a viable plan to evaluate pupil
13 performance and procedures to take appropriate corrective action if
14 pupil performance at the charter school falls below standards
15 established in its charter;

16 (8) The financial plan for the school is designed to reasonably
17 support the charter school's educational program based on a review of
18 the proposed five-year budget of projected revenues, expenditures, and
19 facilities;

20 (9) The school's financial and administrative operations, including
21 its audits, meet or exceed generally accepted standards of accounting
22 and management;

23 (10) The assessment of the school's potential legal liability, and
24 the types and limits of insurance coverage the school plans to obtain,
25 are adequate. A minimum liability insurance policy of five million
26 dollars is required;

27 (11) The procedures the school plans to follow to discipline,
28 suspend, and expel students are reasonable and comply with state and
29 federal law;

30 (12) The procedures the school plans to follow to assure the health
31 and safety of students, employees, and guests of the school comply with
32 applicable state and federal health and safety laws and regulations;

33 (13) The school has developed a program for parent involvement in
34 the charter school;

35 (14) The charter school will have the liquid assets available to
36 operate the school on an ongoing and sound financial basis;

37 (15) The applicant has met any additional requirements that are

1 appropriate and reasonably related to the operation of a charter school
2 that a sponsor or alternate sponsor imposed as a condition for approval
3 of the charter; and

4 (16) The quality management plan for the school is adequate.

5 NEW SECTION. **Sec. 10.** CHARTER AGREEMENT--AMENDMENT. (1) A
6 charter application approved by a sponsor or an alternate sponsor with
7 any changes or additions, and signed by an authorized representative of
8 the applicant and the sponsor or alternate sponsor, constitutes a
9 charter. A charter to convert a public school must include provisions
10 for the disposition, including assignment or reassignment, of the
11 employees of the school before its conversion and after conversion.

12 (2) A charter may be amended during its term at the request of the
13 charter school board of directors and on the approval of the sponsor or
14 alternate sponsor.

15 (3) A charter may not prohibit and must provide for the application
16 of laws applicable to charter schools or to charter school boards of
17 directors enacted after the effective date of this section.

18 NEW SECTION. **Sec. 11.** CHARTER RENEWAL AND REVOCATION. (1) An
19 approved plan to establish a charter school is effective for five years
20 from the first day of operation. At the conclusion of the first three
21 years of operation, the charter school may apply to the original
22 sponsor or alternate sponsor for renewal. A request for renewal must
23 be submitted no later than six months before the expiration of the
24 charter.

25 (2) A charter school renewal application must include:

26 (a) A report on the progress of the charter school in achieving the
27 goals; student performance standards, including the student performance
28 standards adopted by rule by the academic achievement and
29 accountability commission in accordance with RCW 28A.655.030; the
30 number and percentage of educationally disadvantaged students served;
31 and other terms of the charter;

32 (b) A financial statement that discloses the costs of
33 administration, instruction, and other expenditure objects and
34 activities of the charter school; and

35 (c) All audit information from independent sources regarding the

1 charter school, if available, and all self assessments and
2 corresponding corrective action plans.

3 (3) The sponsor or alternate sponsor shall reject the application
4 for renewal if the academic progress of students in the charter school,
5 as measured by the standards and assessments in chapter 28A.655 RCW, is
6 inferior, for the most recent two consecutive years, to the average
7 progress of students in the district in which the charter school is
8 located when similar student populations are compared.

9 (4) The sponsor or alternate sponsor may reject the application for
10 renewal if any of the following occurred:

11 (a) The charter school materially violated its charter with the
12 sponsor or alternate sponsor;

13 (b) The students enrolled in the charter school failed to meet
14 student performance standards identified in the charter, including the
15 student performance standards adopted by rule by the academic
16 achievement and accountability commission in accordance with RCW
17 28A.655.030;

18 (c) The charter school failed to meet generally accepted standards
19 of fiscal management; or

20 (d) The charter school violated provisions in law that have not
21 been waived in accordance with this chapter.

22 (5) A sponsor or alternate sponsor shall give written notice of its
23 intent not to renew the charter school's request for renewal to the
24 charter school within three months of the request for renewal in order
25 to allow the charter school an opportunity to correct identified
26 deficiencies in its operation. At the request of the board of
27 directors of the charter school, the sponsor or alternate sponsor shall
28 review its decision for nonrenewal within forty-five days of receiving
29 a request for review and supporting documentation sufficient to
30 demonstrate that any deficiencies have been corrected.

31 (6)(a) The sponsor or alternate sponsor may revoke a previously
32 approved charter before the expiration of the term of the charter, and
33 before application for renewal, if any of the following occurred:

34 (i) The charter school materially violated its charter with the
35 sponsor or alternate sponsor;

36 (ii) The charter school failed to meet generally accepted standards
37 of fiscal management; or

1 (iii) The charter school violated provisions in law that have not
2 been waived in accordance with this chapter.

3 (b) Except in cases of emergency where the health and safety of
4 children are at risk, a charter may not be revoked unless the sponsor
5 or alternate sponsor first provides:

6 (i) Written notice to the charter school of the specific violations
7 alleged;

8 (ii) One or more public hearings in the school district in which
9 the charter school is located; and

10 (iii) A reasonable opportunity and a sufficient period of time for
11 the charter school to correct the identified deficiencies.

12 (c) If, after following the procedures in (b) of this subsection,
13 the sponsor or alternate sponsor determines that revoking the charter
14 is necessary to further the intent of this chapter, the sponsor or
15 alternate sponsor may revoke the charter. The sponsor or alternate
16 sponsor shall provide for an appeal process upon such a determination.

17 (d) If a sponsor or alternate sponsor revokes the charter, the
18 sponsor or alternate sponsor, upon a request by the charter school,
19 shall provide technical assistance to the charter school to complete
20 the plan required and carry out the tasks identified in subsection (7)
21 of this section.

22 (7) A charter school planning to close or anticipating revocation
23 or nonrenewal of its charter shall provide a plan setting forth a
24 timeline and the responsible parties for disposition of students and
25 student records and disposition of finances.

26 (a) Immediately following the decision to close a school, the
27 school must:

28 (i) Submit to the sponsor or alternate sponsor a list of parent
29 addresses and proof that the school has communicated the impending
30 closure of the school to all parents and staff;

31 (ii) Assign staff responsible for transition of student records and
32 for providing assistance to students and parents in transferring from
33 the charter school to the district public, private, or home school
34 chosen by the family;

35 (iii) Provide the names and contact information for staff
36 responsible for transfer of student records, as well as the projected
37 transition tasks and timelines to the sponsor or alternate sponsor, and

1 upon completion of student transition, provide a list of students and
2 a brief description of the disposition of their student records to the
3 sponsor or alternate sponsor.

4 (b) Before closing the charter school the charter school board of
5 directors shall:

6 (i) Identify a trustee who will, through the process of closing the
7 school and for a term of ten years after closing, assume responsibility
8 for school and student records, and notify the sponsor or alternate
9 sponsor of the name and contact information for the trustee;

10 (ii) Determine the amount of anticipated revenue due to the school
11 as well as anticipated liabilities, and provide a complete asset and
12 liability report to the sponsor or alternate sponsor;

13 (iii) Create a current and projected payroll and payroll benefits
14 commitment;

15 (iv) List each employee, job, and the funds necessary to complete
16 the educational calendar balance of the year, the transition of
17 students and records, and the administrative close-down tasks;

18 (v) Determine the total moneys required to complete contracts;

19 (vi) Schedule an audit and set aside funds to cover costs; and

20 (vii) Provide the sponsor or alternate sponsor with a plan to close
21 the school and to dispose of all property owned by the charter school.

22 NEW SECTION. **Sec. 12.** FUNDING. (1) The superintendent of public
23 instruction shall provide prompt and timely funding for a charter
24 school including regular apportionment, special education, categorical,
25 student achievement, and other nonbasic education moneys. Allocations
26 shall be based on the statewide average staff mix ratio of all
27 noncharter public schools from the prior school year and the school's
28 actual FTE enrollment, except that vocational education funding for
29 grades nine through twelve shall be provided based on eighteen and one-
30 half percent of the charter school's actual FTE enrollment for grades
31 nine through twelve. Enhanced staff ratio funding provided to school
32 districts through the omnibus appropriations act shall be allocated to
33 a charter school regardless of whether the school maintains the
34 enhanced staffing ratio. A charter school is not eligible for enhanced
35 small school assistance funding. Categorical funding shall be
36 allocated to a charter school based on the same funding criteria used
37 for noncharter public schools, except that the charter school is exempt

1 from rules and statutes regarding the expenditure of these funds. A
2 charter school is eligible to apply for state grants on the same basis
3 as a school district. Those allocations to a charter school that are
4 included in RCW 84.52.0531(3) (a) through (c) shall be included in the
5 levy base of the district in which the charter school is located.

6 (2) For charter schools sponsored by a school district:

7 (a) Conversion charter schools are eligible for local levy moneys
8 approved by the voters before the start-up date of the school as
9 determined by the sponsor, and the school district shall allocate levy
10 moneys to a conversion charter school.

11 (b) New charter schools are not eligible for local levy moneys
12 approved by the voters before the start-up date of the school as
13 determined by the sponsor, and the district shall not allocate those
14 levy moneys to a new school.

15 (c) For levies submitted to voters after the start-up date of a
16 charter school, the school shall be included in levy planning, budgets,
17 and funding distribution in the same manner as other district-sponsored
18 public schools.

19 (d) A conversion charter school is eligible for state matching
20 funds for common school construction if a sponsoring school district
21 determines it has received voter approval of local capital funds for
22 the project.

23 (e) A conversion charter school is entitled to the continued rent-
24 free use of its existing facility, regardless of whether the conversion
25 school is sponsored by the local school district or by an alternate
26 sponsor. The district remains responsible for major repairs and safety
27 upgrades that may be required for the continued use of the facility as
28 a public school. The charter school is responsible for routine
29 maintenance of the facility, including but not limited to, cleaning,
30 painting, gardening, and landscaping.

31 (3) No local levy money may be allocated to a charter school if the
32 charter school is sponsored by an alternate sponsor.

33 (4) Within available funds as the legislature may appropriate, new
34 charter schools operating for the primary purpose of serving
35 educationally disadvantaged students under section 16(2) of this act
36 that are not otherwise eligible for levy money shall receive state
37 funding in an amount not greater than the amount the school would have
38 received if eligible.

1 (5) Sponsors and alternate sponsors shall submit, by November 1st
2 of each year, to the office of the superintendent of public
3 instruction, annual year-end financial information, as prescribed by
4 the superintendent, for each charter school sponsored in the previous
5 school year.

6 NEW SECTION. **Sec. 13.** ADMINISTRATION FEE. To offset costs to
7 oversee and administer the charter, a sponsor or an alternate sponsor
8 may retain up to three percent of state funding and local excess levy
9 funding, if applicable, allocated to the charter school. Except for
10 the administration fee in this section, no other offsets or deductions
11 are allowed, whether for central administration or other off-site
12 support services, from a charter school's per-pupil share of state
13 appropriations, local levies, or other funds, unless the charter school
14 has contracted with a school district to obtain specific additional
15 services.

16 NEW SECTION. **Sec. 14.** LEAVES OF ABSENCE. If a school district
17 employee makes a written request for an extended leave of absence to
18 work at a charter school, the school district shall grant the request.
19 The school district may require that the request for leave be made up
20 to ninety days before the employee would otherwise have to report for
21 duty. The leave shall be granted for any request for up to two years.
22 If the employee returns to the school district within the two-year
23 period, the employee shall be hired before the district hires anyone
24 else with fewer years of statewide service, with respect to any
25 position for which the returning employee is certificated or otherwise
26 qualified.

27 NEW SECTION. **Sec. 15.** STUDY OF CHARTER SCHOOLS. Subject to
28 funding, the Washington institute for public policy shall study the
29 implementation and effectiveness of this act. The institute shall
30 report to the legislature on the effectiveness of charter schools in
31 raising student achievement and the impact of charter schools. The
32 institute also shall examine and discuss whether and how charter
33 schools have enhanced education reform efforts and recommend whether
34 relaxing or eliminating certain regulatory requirements for other
35 public schools could result in improved school performance at those

1 schools. The institute shall recommend changes to this chapter
2 including improvements that could be made to the application and
3 approval process. A preliminary report of the study is due to the
4 legislature by March 1, 2007, and a final report is due September 1,
5 2008.

6 NEW SECTION. **Sec. 16.** NUMBER OF CHARTER SCHOOLS. (1) A maximum
7 of forty-five new charter schools may be established statewide during
8 the six consecutive years in which new charter schools are authorized
9 to be created under this chapter.

10 (a) For purposes of this section, a year begins on July 1st and
11 ends on June 30th. In each of the three years beginning July 1, 2004,
12 and ending June 30, 2007, not more than five new charter schools may be
13 established. In each of the three years beginning July 1, 2007, and
14 ending June 30, 2010, not more than ten new charter schools may be
15 established.

16 (b) These annual allocations are cumulative so that if the maximum
17 number of allowable new charters is not reached in any given year the
18 maximums are increased accordingly for the successive years, but in no
19 case shall the total number exceed forty-five without further
20 legislative authorization.

21 (c) Applications for charter schools may be submitted on the
22 effective date of this section.

23 (d) The superintendent of public instruction shall maintain copies
24 of all approved charter applications. An applicant may obtain copies
25 of those applications from the office of the superintendent of public
26 instruction.

27 (2) Consistent with the legislative intent of this chapter, a
28 majority of the annual number of new charter schools that may be
29 established under subsection (1) of this section are reserved to
30 implement charter schools established for the primary purpose of
31 serving educationally disadvantaged students, and that are located in,
32 or accessible to students who live in, geographic areas in which a
33 large proportion of the students have difficulty meeting state academic
34 content and student achievement standards, or geographic areas,
35 including urban and rural areas, in which a large proportion or number
36 of public schools have been identified for improvement, corrective

1 action, or restructuring under the federal no child left behind act of
2 2001, as follows:

3 (a) For new schools allowed during the first year beginning July 1,
4 2004, a majority are reserved until the thirty-first day after the
5 effective date of this section; and

6 (b) For new schools allowed during the second through sixth years,
7 a majority are reserved until March 31st of each year.

8 (3) To ensure compliance with the annual limits for establishing
9 new charter schools, authorization from the superintendent of public
10 instruction must be obtained before implementing an approved charter
11 for a new school. Sponsors and alternate sponsors shall promptly
12 notify the superintendent of public instruction when a charter is
13 approved, and shall indicate whether the charter school's primary
14 purpose is to serve educationally disadvantaged students. Upon the
15 receipt of notice from a sponsor or alternate sponsor that a charter
16 has been approved, the superintendent shall authorize implementing the
17 approved charter establishing the school in compliance with the limits
18 on the maximum number of new charters allowed under subsection (1) of
19 this section and in compliance with the dates until which the majority
20 of new charters each year are reserved under subsection (2) of this
21 section. If the superintendent receives simultaneous notification of
22 approved charters that exceed the annual allowable limits in
23 subsections (1) and (2) of this section, the superintendent shall
24 select approved charters for authorization through a lottery process,
25 and shall assign implementation dates accordingly.

26 (4) If the number of charters reserved each year under subsection
27 (2) of this section is not reached by the thirty-first day after the
28 effective date of this section, or by March 31st of the second through
29 sixth years, the superintendent of public instruction shall notify the
30 sponsors or alternate sponsors of any other approved charters for which
31 authorization has not been granted under subsection (3) of this
32 section, and shall authorize implementing those charters within the
33 annual limits, regardless of whether those charters meet the
34 requirements of subsection (2) of this section.

35 (5) The superintendent of public instruction shall notify eligible
36 sponsors and eligible alternate sponsors when the maximum allowable
37 number of new charters has been reached each year. If the maximum

1 number is not reached by the thirty-first day after the effective date
2 of this section, or by March 31st of the second through sixth years,
3 the superintendent shall report on the number of charters approved.

4 (6) A school district board of directors may establish a conversion
5 charter school during the six consecutive years in which charter
6 schools are authorized under this chapter for any school, including an
7 alternative school, that has failed to make adequate yearly progress
8 for the most recent three consecutive years, or is eligible for school
9 improvement assistance. Determinations regarding adequate yearly
10 progress and eligibility for school improvement assistance must be made
11 by the superintendent of public instruction.

12 (7) A new charter school or a conversion charter school operating
13 according to the terms of its charter to the satisfaction of its
14 sponsor or alternate sponsor may continue to operate after June 30,
15 2010, under a charter renewed by its sponsor or alternate sponsor under
16 section 11 of this act.

17 NEW SECTION. **Sec. 17.** A new section is added to chapter 41.56 RCW
18 to read as follows:

19 In addition to the entities listed in RCW 41.56.020, this chapter
20 applies to new charter schools created under chapter 28A.-- RCW
21 (sections 1 through 16 and 25 of this act). Notwithstanding RCW
22 41.56.060 and 41.56.070, the bargaining units of classified employees
23 of a new charter school must be limited to the employees of the new
24 charter school and must be separate from other bargaining units in the
25 school district or educational service district for at least the first
26 five years of operation of the new charter school. After the five-year
27 period, the employees in a bargaining unit of a new charter school may
28 indicate by a majority vote that they desire to become members of a
29 bargaining unit in the school district in which the new charter school
30 is located.

31 NEW SECTION. **Sec. 18.** A new section is added to chapter 41.56 RCW
32 to read as follows:

33 At the time of creation of a conversion charter school under
34 chapter 28A.-- RCW (sections 1 through 16 and 25 of this act), the
35 employees of a conversion charter school remain in any existing
36 appropriate bargaining unit of employees of the school district in

1 which the conversion charter school is located. If an applicant for a
2 charter school or a charter school board requests one or more variances
3 from a collective bargaining agreement that applies to the relevant
4 school district bargaining unit to address needs that are specific to
5 the charter school and the employees of the charter school, the
6 following applies:

7 (1) At the request of either party, the public employer, in
8 consultation with the applicant or charter school board, and the
9 bargaining representative of the bargaining unit shall negotiate
10 concerning the issues raised in the variance request.

11 (2) If the parties are unable to conclude an agreement regarding
12 the variance request within twenty days of negotiations, either party
13 may declare an impasse and submit the dispute to the commission for
14 mediation. The commission shall appoint a mediator within two days of
15 the submission.

16 NEW SECTION. **Sec. 19.** A new section is added to chapter 41.59 RCW
17 to read as follows:

18 In addition to school districts, this chapter applies to new
19 charter schools created under chapter 28A.-- RCW (sections 1 through 16
20 and 25 of this act). Notwithstanding RCW 41.59.070 and 41.59.080, the
21 bargaining units of educational employees of a new charter school must
22 be limited to the educational employees of the new charter school and
23 must be separate from the bargaining units in the school district or
24 educational service district for at least the first five years of
25 operation of the new charter school. After the five-year period, the
26 employees in a bargaining unit of a new charter school may indicate by
27 a majority vote that they desire to become members of a bargaining unit
28 in the school district in which the new charter school is located.

29 NEW SECTION. **Sec. 20.** A new section is added to chapter 41.59 RCW
30 to read as follows:

31 At the time of creation of a conversion charter school under
32 chapter 28A.-- RCW (sections 1 through 16 and 25 of this act), the
33 employees of a conversion charter school remain in any existing
34 appropriate bargaining unit of employees of the school district in
35 which the conversion charter school is located. If an applicant for a
36 charter school or a charter school board requests one or more variances

1 from a collective bargaining agreement that applies to the relevant
2 school district bargaining unit to address needs that are specific to
3 the charter school and the employees of the charter school, the
4 following applies:

5 (1) At the request of either party, the employer, in consultation
6 with the applicant or charter school board, and the exclusive
7 bargaining representative of the bargaining unit shall negotiate
8 concerning the issues raised in the variance request.

9 (2) If the parties are unable to conclude an agreement regarding
10 the variance request within twenty days of negotiations, either party
11 may declare an impasse and submit the dispute to the commission for
12 mediation. The commission shall appoint a mediator within two days of
13 the submission.

14 NEW SECTION. **Sec. 21.** A new section is added to chapter 41.32 RCW
15 to read as follows:

16 This section designates charter schools as employers and charter
17 school employees as members, and applies only if the department of
18 retirement systems receives determinations from the internal revenue
19 service and the United States department of labor that participation
20 does not jeopardize the status of these retirement systems as
21 governmental plans under the federal employees' retirement income
22 security act and the internal revenue code.

23 NEW SECTION. **Sec. 22.** A new section is added to chapter 41.35 RCW
24 to read as follows:

25 This section designates charter schools as employers and charter
26 school employees as members, and applies only if the department of
27 retirement systems receives determinations from the internal revenue
28 service and the United States department of labor that participation
29 does not jeopardize the status of these retirement systems as
30 governmental plans under the federal employees' retirement income
31 security act and the internal revenue code.

32 NEW SECTION. **Sec. 23.** A new section is added to chapter 41.40 RCW
33 to read as follows:

34 This section designates charter schools as employers and charter
35 school employees as members, and applies only if the department of

1 retirement systems receives determinations from the internal revenue
2 service and the United States department of labor that participation
3 does not jeopardize the status of these retirement systems as
4 governmental plans under the federal employees' retirement income
5 security act and the internal revenue code.

6 **Sec. 24.** RCW 28A.150.010 and 1969 ex.s. c 223 s 28A.01.055 are
7 each amended to read as follows:

8 Public schools (~~shall~~) means the common schools as referred to in
9 Article IX of the state Constitution and those schools and institutions
10 of learning having a curriculum below the college or university level
11 as now or may be established by law and maintained at public expense,
12 including charter schools under chapter 28A.-- RCW (sections 1 through
13 16 and 25 of this act).

14 NEW SECTION. **Sec. 25.** CAPTIONS NOT LAW. Captions used in this
15 chapter are not any part of the law.

16 NEW SECTION. **Sec. 26.** Sections 1 through 16 and 25 of this act
17 constitute a new chapter in Title 28A RCW.

18 NEW SECTION. **Sec. 27.** If any provision of this act or its
19 application to any person or circumstance is held invalid, the
20 remainder of the act or the application of the provision to other
21 persons or circumstances is not affected.

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